[59 cont.]

20. Law

671 627 The norms of natural law among the Bushmen are the same as among us. The family head is at the same time the supreme judge. Since even the nearest kin group is regarded in a sense as a foreign state, however, the boundaries between law, war, and vengeance are exceedingly fluid. The domain of law, therefore, is actually confined to the family. Since the only [681] punishment that can be effectively inflicted is the death penalty, it is rarely applied among married men, [60] for the judges and executioners must provide for the condemned man's survivors. In olden times the women condemned to death were burned or beaten to death with the kirri, and the men were killed with the poisoned arrow.

423 The right to personal possession of utilitarian objects, honey, and certain types of veldkost is strictly respected. The soil is common property of the kin group, as is any big game [224] that is killed. If a wounded animal dies in the domain of the neighboring kin group, the hunter must go there and report it. [578] The dead prey must then be divided. Since, however, there are some unpaired organs, fighting and killing easily arise concern- [627] ing them. Blood vengeance is practiced, but can be resolved through negotiation.

423 614 "Each kin group has a territory that has been inherited from ancient times. The territory is called Gao and might correspond to the German concept Gau [canton, district].

[361] "There are kin groups that are so far apart that a journey of several days lies between them. For example, the territory north of the Omuramba-Owambo near Kajus, where the manketti tree (Ricinodendrum bantaneni) occurs, belongs to a kin group that ordinarily lives over 1,000 [sic] kilometers away and comes there only when the oleaginous fruit is ripe.

"Kin groups with two hunting and gathering regions, come into being through the fusion of two kin groups that have intermarried for so long that fusion came about automatically.

769 614 "The graves of the ancestors are within the kin group's territory. They are marked by the large piles of stone placed on them. The ancestors are regarded as the guardians of the kin group's

[60 cont.]

769 territory. Hence, departure from the territory must be announced
614 by the chief or an elder at the ancestral grave without special ceremonies; similarly, an announcement must be made there when the kin group again moves into the territory."

423 The property of the kin group, aside from its territory, in-
614 cludes the veldkost, the game, and, above all, the watering place (1).

1. Von Zastrow and Vedder, op. cit., p. 434.

775 As has already been said, the Bushman does not believe
[626] in punishment after death. On the other hand, he is convinced that the evil that he himself has done will befall him or his dogs in the same way.

● 681 In former times banishment from the kin group was likewise
648 customary, and the exile would soon perish, since the Bushman
177 cannot survive by himself in the wilderness for any length of time. Nowadays, such individuals, just like those who were expelled from the Bantu tribes, move to land owned by Europeans and find work there. It is obvious that they do not help to improve the reputation of the Coloreds.

695 In cases of doubt, the Bushman swears by the great captain: nu X'u.

681 Instead of formal expulsion, the people may boycott out-
762 laws, who are thereby driven to such despair that they commonly commit suicide. Suicides also occur for other reasons.

21. Conflicts with Europeans

645 Before the police zone boundary was erected, the Bushmen found themselves in a latent state of war with their neighbors. Part of their list of sins will be cited here.

According to Toke, the !Kung near Keibeb in 1925 attacked eight Barotse [Lozi] and killed them, and purportedly ate them. Later, three Ovambo were attacked by surprise, killed,

2: Schapera E-4, 5 (no date) 1930
FX13 Hottentot
Bushmen FX10

There are, further, various sanctions by which non-fulfilment or the breach of any recognized custom is penalized, and which thus also serve as another and more direct means of securing conformance with the pattern of social life. In this category we may place ritual sanctions, where any departure from a prescribed rule of conduct is followed automatically by evil results, without any direct interference on the part of the community. The breaking of a taboo, for instance, is held to produce serious consequences, such as death or disease or ill-luck in the chase. Thus among the Cape Bushmen, as we have seen, girls who do not observe the restrictions imposed upon them at the time of puberty are believed to change into frogs, while men who are seen by the girls at this time become permanently fixed in whatever position they then occupy, and so on. And again there are the numerous observances and avoidances associated with hunting, which if neglected will result in ill-success, the loss of a wounded animal, etc. All sanctions of this sort—and in the preceding pages we have had occasion to notice a good many of them—may be regarded as legal mechanisms, in the sense that they operate to maintain the observance of accepted usages and customs.

Other breaches of custom, however, involve the direct intervention of the members of the community. In general, when disputes arise between the members of the band—among the Naron they are said to be infrequent—there is no appeal to any supreme authority, for, as we have just noted, there is no such authority, nor are cases of wrongdoing or quarrels referred to the chiefs where these exist. The only remedy is self-help. But in so far as self-help is the recognized mode of reaction, it must also be regarded as a legal institution. Blood vengeance indeed is the principal, if not the only, recognized way of dealing with serious offences committed against a person even by members of the same band.[1]

The principal actions penalized in this way are adultery, theft, and homicide. In the case of adultery, as we have already seen, the injured husband attempts to kill the adulterer, if he possibly can, while the unfaithful wife is beaten and in some cases divorced. Theft also provokes blood vengeance, when the thief refuses to restore the stolen property.[2] Even if he does, he is reproached for his deed, and

[1] Kaufmann, op. cit., 155; Trenk, op. cit., 169; D. F. Bleek, *Naron*, 35–6.

[2] According to one of the texts published by Bleek and Lloyd (*Bushman Folklore*, 416–25), among the Kung a man who steals in the camp is killed by the others present, who all shoot at him with their arrows. A married woman who steals is also sometimes shot by her own husband. More frequently, however, she is burned alive in a hut; although, if her parents are

2: Schapera E-4, 5 (no date) 1930
FX13 Hottentot
Bushmen FX10

judge, the head of the band, but in cases of murder, bodily injury resulting in death, and treason the latter is assisted by another man. The judges can invite or summon witnesses, and after coming to a decision announce it in the presence of all the members of the band. Murder is punished by death, the sentence being executed by the relatives of the dead man, who kill his slayer with the kirri or by stoning him; treason is also punished by death, and so, in former times, was adultery, although nowadays the adulterer is merely beaten very severely. Theft, the concealment of stolen property, assaults leading to bodily injury, and offences against morality are punished by thrashing. Attempted crimes as well as aiding and abetting receive the same punishment as the accomplished deed, but self-defence is in no way penalized.

How far this description can be accepted as entirely accurate is difficult to say, since Trenk in discussing the legal usages of these Bushmen makes no mention of such a form of procedure. There is no reason, however, to dismiss it as improbable, since the Nama Hottentots, under whose influence the Namib Bushmen have come to a very large extent, have a more elaborate legal system along the same lines, and the Bushman procedure may well have been imitated from this. There is nothing, as far as our present information goes, to suggest the existence of such an organized procedure in any of the other Bushman tribes.

Relations with Other Bands

Each band, as has been shown, has its own particular hunting territory, and in general the members of the band keep within their own bounds. But people of neighbouring bands do occasionally have relations with one another. Intermarriage, for example, is a rule among the North-Western tribes, where also a newly-married man generally remains for some time with his wife's people before returning with her to his own band. Visits are apparently also frequent between families connected by marriage, and in any case, as we have seen, a woman always goes back to her parents' home for her first confinement. Trading visits, again, are often undertaken from one band to another, while under special circumstances we may also find the members of several different bands assembled together for a while. It has already been mentioned, for instance, how an outbreak of rinderpest resulting in the death of many cattle drew together